



BRIEFING STATEMENT

BLM-MONTANA/DAKOTAS

MONTANA STATE OFFICE • 5001 SOUTHGATE DRIVE • BILLINGS, MONTANA 59101 • WWW.BLM.GOV/MT

March 13, 2012

SUBJECT: KEYSTONE XL PIPELINE

I. SUMMARY:

New oil and gas pipeline systems are proposed across lands Montana and the Dakotas to support energy development and transport product to markets. The BLM processes applications and issues authorizations for this type of pipeline under the authority of the Mineral Leasing Act of 1920, as amended (MLA). The BLM issues MLA right-of-way grants for oil and gas pipelines crossing BLM's jurisdiction, and when an oil and gas pipeline is proposed to cross the jurisdiction of two or more federal agencies (with the exception of Indian trust lands and lands administered by the National Park Service). Depending on the type of project proposed and the jurisdictions crossed, the BLM may be the lead agency and/or lead BLM state for the project and could be the lead, co-lead, or a cooperating agency for compliance with the National Environmental Policy Act (NEPA).

II. BACKGROUND:

TransCanada is proposing to construct and operate a 36-inch buried pipeline to transport crude oil from Canada to the Gulf Coast of Texas. Of the 1,375 miles of new construction in the U.S., the project crosses 42 miles of BLM-administered public land in Montana, as well as Bureau of Reclamation and Army Corps of Engineer facilities/lands. The project would provide pipeline connection identified as the Bakken Marketlink in Montana for Williston Basin crude oil to be transported to U.S. refineries.

Under Executive Order 13337, the Department of State (DoS) is responsible for rendering a decision for the project to cross the U.S. international border and is the lead federal agency for compliance with NEPA. The Montana/Dakotas BLM is a cooperating agency. The BLM Montana is the lead state to prepare, issue, and administer the MLA right-of-way grant where it crosses federal land. The Miles City Field Manager has been delegated authority as the Authorized Officer.

A Final Environmental Impact Statement (EIS) was released in August 2011; however, no Record of Decision was issued because of the high level of controversy manifested through repeated international, national and congressional comments on the project, and a need to change the route through Nebraska. Although various legislation addressed timeframes for approval of the permit, President Obama and the DoS determined in January 2012 that a Presidential Permit for the project be denied, predicated on the fact that the Department does not have sufficient time to obtain the information necessary to assess whether the project, in its current state, is in the national interest.

The permit denial without prejudice was published February 3 in the *Federal Register*. This action does not preclude any subsequent permit application or applications for similar projects. TransCanada has worked with the Nebraska DEQ and Public Utilities Commission on a new route through Nebraska and will soon file for a new Presidential Permit with the DoS. In December 2011, the U.S. Fish and Wildlife Service (FWS), at the request of the DoS, withdrew the Biological Opinion on the effects to Threatened and Endangered Species for the project. If a new application is filed with DoS with new lands proposed, the DoS may request that the FWS amend the biological assessment for a new biological opinion. TransCanada has not withdrawn its MLA ROW application and plans to amend its application with BLM to eliminate any federal lands in Nebraska that will not be crossed due to the new routing. The BLM may conduct a determination for NEPA adequacy for the existing final EIS analysis since there was no route change in Montana and South Dakota.

III. PUBLIC INTEREST:

There is diverse interest ranging from support of developing critical infrastructure to maintain energy supplies to opposition opinions that major pipelines are not needed. Issues revolve around a variety of concerns including route locations, impacts to resources, and in particular, public health and safety. On a broader scale, the July 2011 pipeline rupture spilling into the Yellowstone River near Billings, Mont., at Laurel has heightened interest and concern over the Keystone XL project, which has several major river crossings along the proposed route. TransCanada has segmented the project and plans to begin construction of the Cushing segment in 2012. They expect a decision under EO13337 and MLA later in 2012 involving only the Steele City (northern) segment.

CONTACTS:

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